

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION	:	MDL 2724 16-MD-2724
THIS DOCUMENT RELATES TO:	:	HON. CYNTHIA M. RUFÉ
ALL ACTIONS	:	

**PRETRIAL ORDER NO. 35
(BRIEFING ON MOTIONS TO DISMISS
IN CASE MANAGEMENT GROUPS 2 AND 3)**

AND NOW, this 12th day of September 2017, pursuant to the agreement of counsel and as discussed at the Status Conference held this date, it is hereby **ORDERED** the following schedule and page limits are established for briefing on motions to dismiss in Case Management Groups 2 and 3.

A. TIMING OF MOTIONS TO DISMISS

1. The following schedule shall apply to briefing of Defendants' motions to dismiss the consolidated amended complaints in **Case Management Group 2**:

- a. All motions to dismiss and accompanying memoranda shall be filed no later than April 5, 2018;
- b. All oppositions to the motions to dismiss shall be filed no later than May 21, 2018; and
- c. All reply memoranda in further support of the motions to dismiss shall be filed no later than June 20, 2018.

2. The following schedule shall apply to briefing of Defendants' motions to dismiss the consolidated amended complaints in **Case Management Group 3**:

- a. All motions to dismiss and accompanying memoranda shall be filed no later than May 7, 2018;
- b. All oppositions to the motions to dismiss shall be filed no later than June 21, 2018; and
- c. All reply memoranda in further support of the motions to dismiss shall be filed no later than July 23, 2018.

3. The Court requires one courtesy copy of all unredacted versions of motions, responses, and replies. Lead and Liaison Counsel shall arrange one submission to the Court of all courtesy copies within five days of a filing deadline.

B. PAGE LIMITS FOR MOTIONS TO DISMISS¹

- 1. Briefing on Common Motion to Dismiss for Each Lead Case
 - a. Defendants' memorandum of law in support of their common legal argument motion ("Common Motion") to dismiss the Direct-Purchaser Plaintiffs' ("DPP") Consolidated Class Action Complaint may not exceed 40 pages.
 - i. The DPPs' memorandum of law in opposition to the Common Motion may not exceed 40 pages, except as provided in Section 2 below.
 - ii. Defendants' reply memorandum of law in further support of their Common Motion may not exceed 25 pages.

¹ The page limits are exclusive of any caption, table of contents, table of authorities, signature pages, exhibits, and appended charts regarding individual state law issues.

b. Defendants' memorandum of law in support of their Common Motion to dismiss the End-Payer Plaintiffs' ("EPPs") Consolidated Class Action Complaint may not exceed 40 pages.

i. The EPPs' memorandum of law in opposition to the Common Motion may not exceed 40 pages, except as provided in Section 2 below. Notwithstanding these limitations, should Defendants elect to incorporate any other Common Motion into their Common Motion to dismiss the EPP Consolidated Class Action Complaint, prior to the filing of the EPPs' Opposition to the Common Motion, the EPPs and Defendants shall meet and confer in good faith regarding whether the EPPs require additional pages for their opposition. If additional pages are required, Defendants will not unreasonably withhold consent and the Parties will submit to the Court a stipulation and proposed Order modifying the page limitations. The Court reserves ruling on any requests to extend page limitations.

ii. Defendants' reply memorandum of law in further support of their Common Motion may not exceed 25 pages.

c. Defendants' memorandum of law in support of their Common Motion to dismiss the Indirect Reseller Plaintiffs' ("IRPs") Consolidated Class Action Complaint may not exceed 40 pages.

i. The IRPs' memorandum of law in opposition to the Common Motion may not exceed 40 pages, except as provided in Section 2 below. Notwithstanding these limitations, should Defendants elect to incorporate any other Common Motion into their Common Motion to dismiss the IRP Consolidated Class Action Complaint, prior to the filing of the IRPs' Opposition to the Common Motion, the IRPs and Defendants shall meet and confer in good faith regarding whether the IRPs require additional pages for their opposition. If additional

pages are required, Defendants will not unreasonably withhold consent and the Parties will submit to the Court a stipulation and proposed Order modifying the page limitations. The Court reserves ruling on any requests to extend page limitations.

ii. Defendants' reply memorandum of law in further support of their Common Motion may not exceed 25 pages.

2. Briefing on Individual Motions to Dismiss for Each Lead Case:

a. Each Defendant may file a consolidated motion and memorandum of law addressing distinct reasons for dismissal (the "Individual Motion"). Defendants electing to file Individual Motions shall make a good faith effort to limit repetition of any arguments, background, or legal standards contained in the Common Motions to the extent practicable. The additional memorandum of law may not exceed 11 pages and must address all individual issues regarding the allegations raised in the DPP, EPP, and IRP Consolidated Amended Complaints.

b. DPPs, EPPs, and IRPs may each respond to the Individual Motions within their respective memorandum of law in opposition to the Common Motion provided that:

i. They clearly demarcate each section that responds to either the Common Motion or to an Individual Motion;

ii. The section responding to the Common Motion may not exceed 40 pages; and

iii. Plaintiffs collectively may not exceed 11 pages in responding to each Individual Motion. These 11 collective pages are in addition to the pages allocated for Plaintiffs' Oppositions to the Common Motions.

c. To the extent any individual Defendant files a reply memorandum of law in support of its Individual Motion, it may not exceed six pages.

3. To the extent Defendants repeat any arguments that were presented in any prior motion to dismiss directed to a complaint in Case Management Group 1, or in any contemporaneously filed motion directed to a complaint in Case Management Group 2 or 3, Defendants shall clearly identify any such repetition, or any material changes to earlier arguments, in their memoranda of law in support of their motions to dismiss the consolidated amended complaints in Case Management Groups 2 and 3. Plaintiffs shall do the same with respect to the arguments in their memoranda of law in opposition.

It is so **ORDERED**.

BY THE COURT:

/s/Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.